S.B. Civil Writ Petition No.1520/01
Gopi Ram Vs.State of Raj.

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

4.1.2007

Mr. M.M. Mehrishi for petitioners.
Mr.Ved Prakash Shastri for respondents.

Heard learned counsel for the parties.

In this writ petition which was filed way back on 3rd February, 2001 prayer has been made that investigation of the FIR No.338/2000 lodged with the Police Station Harmara for offences under Section 147, 148, 120B, 167 and 379 of the IPC be directed to be entrusted to the Central Bureau of Investigation and the Director General of the Police of the State should be required to provide all protections to the life and property of the petitioner.

Contention of the petitioner is that they are Khatedars of land of khasras nos.

2, 3, 6, 7 to 17, 19, 30, 33, 34, 105 to 110, 114 to 119, 127 to 130 and No.122/1796 admeasuring 28.96 hectors. One of the co-sharer Shri Hanuman Sahai sold his share to Ram Kumar son of Lal Chand and Ram Karan, Surajbhan, Sita Ram, all sons of Ramdev, without any consent of the petitioners. The petitioners along with their brothers Bansi Singh and Ram Kumar filed two suits for temporary injunction against the aforesaid persons. The Assistant Collector, Jaipur passed a temporary injunction order against them not to obstruct the plaintiffs (petitioner herein) from cultivating the land in dispute. On 14.10.2000 Birdhi Chand and Ram Kumar along with certain police personnel from police station Harmara came on site and threatened the petitioners to leave the field or face consequences. The petitioner represented to Collector.

The respondent no.6 lodged a complaint with police station Harmara Jaipur City on 14.10.2000 asserting therein that he was in possession and cultivation of the land of khasra no.119 for last 24-25 years and had got the land as his share in partition. On 14.10.2000, 22-23 persons forcibly entered his land and brought down his old chappar and destroyed the standing crop. The police lodged a regular criminal case as FIR No.292/2000 for offences under Section 147, 439, 437 against the 24 persons including the petitioners named as accused in the FIR. In the name of investigation of that FIR, ASI Ram Sahai along with certain police personnel came to the site and threatened the petitioners to vacate the land and started destroying their standing crop. He did not respect the interim order passed in favour of the petitioners by the Court. The said ASI Ram Sahai thereafter

brought the relatives of the petitioners to the police station Harmara and put them in lockup and on the following date i.e. On 16.10.2000, they were produced before the SDM, Amber along with an Istgasa under Section 107, 116 and 181 Cr.P.C. on totally false and frivolous facts. All of them were then released on bail bonds under order of SDM on 16.10.2000. After their release on bail, the petitioner filed a complaint before District Collector. Under his direction, Tehsildar along with Patwari visited disputed site on 16.10.2000 for on the spot inspection and reported to old position of the petitioners. In spite of the report and the stay order operating in favour of the petitioners, SHO, Harmara again arrived at the site of the land in dispute on 17.10.2000 and threatened ladies of their family not to come to the field.

Allegations have been made also against

Shri R. Singh concerned Circle Office and SHO Police Station Harmara that they reached on the disputed site on 18.10.2000 and forcibly brought the petitioner and their family members to the police station. The petitioner has asserted that he made complaints against them to Collector, Dy. Inspector General of Police and all others and finally when nothing was done he filed private complaint in the Court of Civil Judge (Junior Division) cum Judicial Magistrate, Chomu, Distt. Jaipur on 4.11.2006 which was sent to Police Station Harmara under Section 156 Cr.P.C. for investigation. It is on that basis that FIR No.338/2000 dated 7.11.2000 was registered, investigation of which is being sought to be transferred to CBI.

On the other hand Shri Ved Prakash Shastri, the learned counsel for respondent nos. 3 to 5 while opposing the writ

petition has invited attention of the Court towards the final report given in the aforesaid FIR by the Court on 17.1.01, copy of which has been placed on record as Annexure-R/5. He has also referred to the proceedings of the Court to show that finally that the final report was accepted by the Court on 23.9.2004, when in spite of notice, no one appeared from the side of the complainant. He has referred to column 10 of the F.R. according to which notice of F.R. was given to the complainant / informant on 19.1.2001.

Learned counsel for the petitioner however rejoined him and stated that the FR was accepted in absence of the complaint and then the protest petition was rejected and that the revision petition filed thereagainst was also dismissed against which the petition under Section 482 Cr.P.C. has been filed which is presently

pending consideration of the Court.

Considering the arguments of learned counsel for the parties, I find that when in the facts of the case already final report has been submitted and accepted by the Court which has also rejected the protest petition and further the order of acceptance of final report and rejection of protest petition upon scrutiny have been upheld by the revision Court, which order is now under challenge in a petition filed under section 482 Cr.P.C. I do not find any good reason to transfer the investigation of FIR No.338/2000 to Central Bureau of Investigation more particularly when no such investigation is pending as on the date. Now when the petitioner has already availed of the further remedy of filing criminal misc. petition before this court against the aforesaid two orders, there can be no justification for directing

entrustment of investigation to the CBI. In the facts of the case, there being no substance in this petition, the same is dismissed with no order as to costs.

(Mohammad Rafiq),J.

RS/-